

Application No. 10/645,913
Attorney Docket No.: T1118/20102
Preliminary Amendment Dated October 28, 2004

REMARKS/ARGUMENTS

By this Amendment, claims 1, 14 and 30 are amended back to their original form. Claims 1-43 are pending. No new matter is added.

This Amendment is submitted to return the claims to their original form and to withdraw certain arguments made by the previous attorneys for Applicant in their May 20, 2004 Amendment Before Action. That Amendment presumed that the obviousness rejections set forth in the August 27, 2002 Final Rejection in the parent application would be repeated in this application, and presented arguments and evidence intended to preempt such rejections.

As acknowledged in the April 21, 2003 Reasons for Allowance in the parent application, the Rule 131 Declaration of Drs. Grunstein and Hakonarson antedated Fick et al., Platz et al. and Jager et al. as prior art. Since all of the August 27, 2002 obviousness rejections relied on these references, the declaratory evidence alone obviates the obviousness rejections. Therefore, Applicants respectfully request that the Examiner disregard any arguments made in the Amendment Before Action other than those explaining how the Rule 131 Declaration of Drs. Grunstein and Hakonarson antedates Fick et al., Platz et al. and Jager et al. as prior art.

While the other arguments set forth in the Amendment Before Action accurately describe certain embodiments of the invention, the claims as presently amended are not limited thereto. In particular, the broadest aspects of the claimed invention are not limited to specifically targeting airway smooth muscles (ASM) cells, although ASM cells are the most preferred target in certain embodiments of the invention.

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Applicants reserve their right to revive any and all of the arguments and amendments set forth in the Amendment Before Action, in this or future related applications, should future circumstances warrant doing so.

It is respectfully submitted that the application is in good form for initial examination on the merits. Accordingly, prompt and favorable examination on the merits is respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for initial examination and allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
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October 28, 2004

By



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Please charge or credit our Account
No. 03-0075 as necessary to effect
entry and/or ensure consideration of
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